

**Iowa Department of Natural Resources
Natural Resource Commission**

ITEM

21

INFORMATION

TOPIC

Hole in the Hills at Wa-Shawtee – Deed Restrictions

The Department and a non-profit group, Hole in the Hills at Wa-Shawtee (Hole in the Hills), will provide information about property in Fremont County in which the parties both have interests. Hole in the Hills currently possesses approximately 65 acres of land adjacent to Waubonsie State Park. Hole in the Hills is self-described as “a non-profit organization established to enrich the lives of young people affected with life altering conditions by providing a physically safe and medically sound camping experience.” Hole in the Hills would like to share its vision for the property with the Commission in more detail.

In 2005, the state of Iowa, through the Commission, purchased 646 acres of land adjacent to the then existing Waubonsie State Park for \$2.1 million from a private individual, Edd Marshall. The purchase was made with funds appropriated by the Iowa Legislature. At the same time, Edd Marshall gifted 65 adjacent acres to Hole in the Hills for the purposes of building and operating a camp for children with life-threatening diseases. The deed conveying this 65-acre property to Hole in the Hills has restrictions that, if not satisfied, will cause the property to transfer to the State of Iowa through the Department of Natural Resources. (A copy of the option to sell, executed by Edd Marshall, and a copy of the deed, created by an attorney for Hole-in-the-Hills and executed by Edd Marshall, are included as attachments.) Hole in the Hills is concerned about how these restrictions impact their fundraising efforts and has asked the Department to remove them.

The Commission is limited in the disposal of public lands under its jurisdiction by Iowa law. Iowa Code section 461A.32 prohibits the Commission from selling such lands unless the Commission determines, in its judgment, the land “may be undesirable for conservation purposes.” By agreeing to remove the deed restrictions, the Commission would be disposing of a future interest in the 65 acres and would, therefore, need to determine that such property would not be desirable for conservation purposes.

Jon Tack will present the item, as Kelley Myers, staff attorney assigned to assist the Commission, and Ed Tormey, General Counsel for the Department, are out of the office. Hole in the Hills will provide a brief presentation about its intentions for its 65 acres. Department staff will be available to answer questions.

Jon Tack
Legal Services Bureau
September 11, 2008

Attachments: Option to Sell property to state of Iowa
Deed conveying property to Hole in the Hills at Wa-Shawtee